

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PERRY A. FRANKEL, M.D. AND  
ADVANCED CARDIOVASCULAR  
DIAGNOSTICS, PLLC,

Plaintiffs,

v.

U.S. HEALTHCARE, INC. d/b/a AETNA U.S.  
HEALTHCARE, INC. d/b/a AETNA HEALTH,  
INC., AND AETNA, INC. d/b/a AETNA.

Defendants.

Civil Action No.: 1:18-cv-06378-  
ER-BCM

**NOTICE OF MOTION TO  
DISMISS**

**PLEASE TAKE NOTICE** that upon the accompanying Declaration of Mark J. Schwemler, Esq., including all the exhibits attached thereto, and upon the accompanying Memorandum of Law, Defendant Aetna Life Insurance Company (improperly pled in the caption as U.S. Healthcare, Inc. d/b/a Aetna U.S. Healthcare, Inc. d/b/a Aetna Health, Inc., and Aetna, Inc. d/b/a Aetna) will move this Court at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, before the Honorable Edgardo Ramos, United States District Judge, for an Order dismissing this action with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).

In accordance with the schedule set by this Court, Defendant's moving papers will be filed and served on November 5, 2018; Plaintiffs' answering papers shall be filed and served on December 5, 2018; and Defendant's reply papers shall be filed and served on December 19, 2018.

Respectfully submitted,

**Connell Foley LLP**

/s/ Patricia A. Lee

Patricia A. Lee  
Elyse S. Tormey  
888 Seventh Avenue, 9th Floor  
New York, NY 10106  
212-307-3700  
PLee@connellfoley.com  
ESchier@connellfoley.com

**Elliott Greenleaf, P.C.**

Mark J. Schwemler  
Gregory S. Voshell  
Thomas B. Helbig, Jr.  
925 Harvest Drive, Suite 300  
Blue Bell, PA 19422  
215-977-1000  
mjs@elliottgreenleaf.com  
gsc@elliottgreenleaf.com  
tbh@elliottgreenleaf.com

*Counsel for Defendant Aetna Life Insurance  
Company*

Dated: November 5, 2018